

Office/Contact: Office of Human Resources

Source: SDBOR Policy 1:6 SDBOR Policy 4:39

Link: <https://www.sdbor.edu/policy/documents/1-6.pdf>; <https://www.sdbor.edu/policy/documents/4-39.pdf>

Forms: Telecommuting Request Form; Telecommuting Agreement

SOUTH DAKOTA STATE UNIVERSITY
Policy and Procedure Manual

SUBJECT: Telecommuting

NUMBER: 4:16

1. Purpose

This policy and its procedures define whether and how University employees' requests to telecommute or work from a remote location will be considered by the University.

2. Definitions

- a. Telecommuting: the act of a University employee working from a location different than the Normal Work Station for that employee's job description for any defined period of time, excluding travel.
- b. Normal Work Station: the physical location—office, work station, or building—where the employee's position is regularly assigned to work by their supervisor as authorized in accordance with University Policy 4:15.
- c. Remote Site: the physical location where an employee's supervisor has assigned the employee's work station other than the Normal Work Station.

3. Policy

- a. The SDBOR has delegated to the University President, subject to limited exceptions under SDBOR Policy 1:6 and other corresponding SDBOR policies, the authority to appoint, terminate, manage, supervise, control, and determine compensation for University employees. The SDBOR, through SDBOR Policy 4:39, has also recognized the potential need for flexibility in employment terms by allowing for alternative work schedules that nevertheless "meet program goals and provide better customer service."
- b. In keeping with the above standards, Telecommuting shall, unless directed by the President as provided in subpart 3.j below, only be considered where the requesting non-probationary employee has been in a full-time, Fair Labor Standards Act-exempt, and non-faculty position for at least one year, and whose department or unit will meet program and workload goals, and provide better customer service, through the Telecommuting arrangement.
- c. ADA accommodation requests for remote work are handled through the standard ADA Accommodation process.

- d. Once the threshold for consideration is met, the following issues, in no particular order, may be considered before approving a Telecommuting request:
 - i. The prior performance of the employee, particularly as would indicate their performance with diminished direct oversight;
 - ii. The ability to regularly monitor the employee's performance from a remote site given their job duties and the available technology;
 - iii. The importance of the employee being located at their Normal Work Station to achieving program goals of the department or unit;
 - iv. The importance of the employee being located at their Normal Work Station with regard to the employee's customer service;
 - v. The desires of the employee;
 - vi. The impact of approval on colleagues in the department or unit, including any workload shifting;
 - vii. The impact of approval on the career development of the employee;
 - viii. The suitability of the employee's proposed Remote Site; and
 - ix. The technology and equipment available for the employee to use from the proposed Remote Site.
- e. Initial and continued approval of Telecommuting requests shall be conditioned upon the following requirements:
 - i. Normal business hours for the department or unit shall be maintained except for exceptions that receive the express, prior written approval of the supervisor;
 - ii. All travel required by the employee's supervisor between the Normal Work Station and Remote Site—to include meetings, training, and other supervisor directives requiring the employee's physical presence at the Normal Work Station—and the expenses associated with the travel, shall be the responsibility of the employee;
 - iii. The employee shall establish and maintain a work station in clean and working order, and in compliance with all applicable building codes, in their Remote Site that shall be approved by the supervisor prior to the start of Telecommuting, and shall only be substantially modified upon approval by the supervisor;
 - iv. The employee shall maintain regular, hourly communication availability through electronic devices with their supervisor and the Normal Work Station, including by phone and e-mail, unless such availability is unreasonable or is not possible;
 - v. The employee shall adhere to all SDBOR and University policies, in addition to all applicable laws, at their Remote Site and while on University business. The employee shall accurately report all hours worked as required;

- vi. The employee shall maintain all confidential, trade secret, proprietary, and personally identifiable information as required;
 - vii. The employee is required to provide their own utility service to their work station, including but not limited to telephone service, high-speed internet service, electricity, and heat;
 - viii. The employee is to allow University personnel to access the employee's Remote Site work station for business-related purposes, including set-up, servicing, and replacing University equipment, and for obtaining University property;
 - ix. Where the University does not provide its own equipment, software, and resources to set up and maintain the Remote Site work station, the employee will be responsible for paying for and obtaining the equipment deemed necessary by the employee's supervisor for the employee to carry out the essential functions of their position, with such equipment and its business use subject to all applicable SDBOR and University policies;
 - x. The employee must maintain a performance rating of "meets expectations" or equivalent in their performance evaluations while Telecommuting;
 - xi. The employee is responsible and liable for the loss of state-owned equipment due to damage or theft while Telecommuting; and
 - xii. Telecommuting is prohibited from serving as a substitute for childcare, personal leave, as a means of facilitating outside employment or other activities prohibited by federal, state, or local law or SDBOR or University policies while on University work time.
- f. Supervisors may accept an intermittent or temporary Telecommuting arrangement, or a longer-term arrangement. Before receiving consideration, the employee requesting such an arrangement must specify their proposed Remote Site schedule and job duties.
 - g. Supervisors may work with employees jointly to create a Telecommuting arrangement that best serves the interests of the University, under the terms of this policy.
 - h. Supervisors retain full discretion on whether to initially approve or deny any Telecommuting request made by their direct report, or to initiate work as remote. The department or unit head, the dean or supervisor equivalent, and a Small Committee comprised of Human Resources designee, Office of General Counsel designee, and the VP over the unit to which the employee reports, or their successors, must all approve the Telecommuting request prior to its authorization. Payroll Services, IT, and Risk Management will be contacted for consideration of compliance issues related to the Telecommuting request prior to authorizing the Telecommuting request.
 - i. Once authorized, the employee's supervisor retains the authority to temporarily revoke any approved Telecommuting request for any reasonable employment, educational or programmatic reason, including but not limited to the considerations and requirements listed above. The department or unit head, the dean or supervisor equivalent, and a Small Committee comprised of Human Resources designee, Office of General Counsel designee, and the VP over the unit to which the employee reports, or their successors, must all approve

extension, modification, or termination of Telecommuting requests prior to its authorization. Reasonable effort will be made to provide 30 days' notice of such a change to accommodate commuting, childcare, and other problems that may arise from such a change.

- j. Non-essential personnel, as that term is defined in University Policy 10:7, may be directed to temporarily Telecommute. This directive does not require the completion of any forms or agreements, but requires supervisors to consult with the affected employees, Human Resources, and to provide written work expectations that are subject to supervisor modification during the Telecommuting period directed by the President, or designee.

4. Procedures

- a. The employee must complete the applicable Telecommute Request Form(s) in order to have their Telecommuting request considered by their supervisor. The employee shall supplement the information provided on the Form as required by their supervisor or Small Committee.
- b. Upon receipt of the Form, the supervisor will consider whether the employee meets the eligibility requirements in this policy. If so, the supervisor will consider the factors contained in this policy when determining whether to grant the request. If the supervisor plans to approve the request, the supervisor shall consult with Payroll Services, IT, and Risk Management for consideration of compliance issues related to Telecommuting, and obtain the approval of the Small Committee for any Telecommuting requests.
- c. If the supervisor, department or unit head, Small Committee, or dean or supervisor equivalent, refuses to grant the employee's Telecommuting request, the supervisor shall provide to the employee a written response with the rationale(s) justifying the refusal. Accordingly, if not refused by the supervisor, the level of review that refuses to grant the Telecommuting request must provide their rationale to the supervisor.
- d. The refusal of a Telecommuting request does not provide an independent basis for a grievance.
- e. Where the Remote Site is out of state, Payroll Services must be notified of the location prior to commencing the Telecommuting arrangement in order to set up the appropriate worker's compensation, unemployment and tax reporting requirements for the Remote Site.

5. Responsible Administrator

The Assistant V.P. for Human Resources, or designee, is responsible for the annual and ad hoc review of this policy and its procedures. The University President is responsible for approving this policy.

SOURCE: Approved by President on 12/04/2019. Revised; Approved by President on 5/13/2020. Interim Revisions Approved by President on 10/24/2020.